THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 2630 OF 2000

Dated 22nd August, 2007

Between:

Smt. Ameena Bee W/o Md.Abdul Rahman

…Petitioner.

And

The District Collector, Nalgonda District,
Nalgonda and others.

…Respondents.

ORAL ORDER:

There is no representation on behalf of the petitioner.

In this writ petition, the petitioner seeks directions by way of mandamus to the respondents to quantify and assess the loss sustained by the petitioner on account of demolition of two shops and compound wall covered by premises Nos. 5-2-26 and 5-2-27, situated at Rashtrapathi Road, Nalgonda.

It is the case of the petitioner that she is the owner of the shops referred above adjoining the road within the Nalgonda Municipality. It is the grievance of the petitioner that though the said properties are her private properties, the respondents had demolished the same illegally and as such, she made an application to the Executive Engineer to assess the loss sustained by the petitioner. When there was no response, she approached this court by filing this writ petition for a direction to the respondents to assess the loss on account of the demolition of the structures referred to above.

The second respondent, Commissioner, Nalgonda Municipality, has filed counter affidavit stating that they have not taken up the road widening. The road in question, which was widened, was under the control of the Roads and Buildings Department.

A separate counter-affidavit is filed by the Mandal Revenue Officer, Nalgonda on behalf of respondents 1 and 4, in which, it is stated that a part of the petitioner's building bearing Nos. 5-2-26 and 5-2-27 of Nalgonda Town has fallen within the alignment of road margins as per the Nalgonda Municipality Master Plan, but, however, the Department has not demolished the petitioner's building and the writ petitioner herself removed the affected structures which were found on the road margins. While denying all the allegations of the petitioner, it is stated that as there was no demolition undertaken by the respondents and the constructions

were made within the road margin, the question of payment of compensation will not arise.

While according to the petitioners the building bearing Nos. 5-2-26 and 5-2-27 along with the compound wall is her private property and the same was demolished illegally by the respondents, the respondents in the counter affidavit stated that they have not demolished the said structures and as the same fell within the road margin, the petitioner herself removed the said structures when the respondents have taken up road-widening programme.

In view of the stands taken by the parties, it is not possible to record a finding as to whether the property in question was the private property and was demolished by the respondents illegally or not in the absence of recording any evidence, in this petition filed under Article 226 of the Constitution of India. Therefore, leaving it open to the petitioner to approach the appropriate forum to claim the relief, the writ petition is dismissed. However, there shall be no order as to costs.

22-8-2007 **R.SUBHASH REDDY, J.**

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